

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Patent Interference No. 105,308

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**SMITHKLINE BEECHAM CORPORATION**  
(6,518,399),  
Junior Party,

v.

**BOARD OF REGENTS FOR THE UNIVERSITY OF TEXAS SYSTEM,**  
UNITED STATES OF AMERICA,<sup>1</sup> **MERCK FROSST CANADA & CO., AND MERCK & CO.**  
(09/601,582),  
Senior Party.

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Entered: 13 February 2006

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**Judgment - Bd. R. 127(b) - Requested**

Before SCHAFFER, TORCZON, and MOORE, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

1       The senior party has requested (Paper 33) "that adverse judgment be entered  
2 against it in the present Interference as to all of the claims designated as corresponding  
3 to the Count". The request is GRANTED.

4       HELD that judgment be entered against the senior party;

5       FURTHER HELD that the senior party not be issued claims for the subject matter  
6 of the count, specifically including 09/601,582 claims 1, 4, 5, and 7, which correspond  
7 to the count; and

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<sup>1</sup> As represented by the Secretary for the Department of Health and Human Services.

1        FURTHER HELD that a copy of this decision be entered in the administrative  
2 records of the 09/601,582 patent application and the 6,518,399 patent.

/Richard E. Schafer/  
Administrative Patent Judge

/Richard Torczon/  
Administrative Patent Judge

/James T. Moore/  
Administrative Patent Judge

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

cc (via electronic mail):

For Smithkline Beecham Corp.: **Gerald M. Murphy, Jr.** and **MaryAnne Armstrong**,  
BIRCH, STEWART, KOLASCH & BIRCH, LLP, of Falls Church, Virginia.

For Board of Regents of the University of Texas System, the United States of America,  
Merck Frosst Canada & Co., and Merck & Co.: **Robert A. Hodges** and **Tina W.**  
**McKeon**, NEEDLE & ROSENBERG, P.C., of Atlanta, Georgia.

**Notice:** Agreements and understandings regarding the termination of an interference  
are subject to filing requirements under 35 U.S.C. 135(c).

**Notice:** In the event of judicial review, note the requirements of Bd. R. 8(b).

**Townes, Yolunda**

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**From:** Townes, Yolunda on behalf of Interference Trial Section

**Sent:** Monday, February 13, 2006 3:26 PM

**To:** 'Hodges, Robert (NEEDLE & ROSENBERG)'; 'Mailroom (BIRCH STEWART)'; 'Mailroom (BIRCH STEWART)'; 'McKeon, Tina (NEEDLE & ROSENBERG)'

**Subject:** Interference #105308\_035 - Judgment-Bd.R. 127(b)-Requested

2/13/06